

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT W. WELSH, d/b/a BIG TEN DEVELOPMENT,)	
)	
)	
Plaintiff,)	Case No. 08 C 1342
)	
v.)	Judge Joan B. Gottschall
)	Magistrate Judge Susan E. Cox
BIG TEN CONFERENCE, INC.,)	
)	
Defendants.)	
)	

SUPPLEMENTAL OPPOSITION TO MOTION TO STAY DISCOVERY

The Court having taken the matter under advisement, we respectfully submit this supplemental opposition to the defendant's motion to stay. As noted in our April 28th filing, a resolution of the defendant's proposed motion to dismiss simply will not dispose of this entire case. *See Cohn v. Taco Bell Corp.*, 147 F.R.D. 154, 162 (N.D. Ill. 1993) (holding that "staying discovery is particularly inappropriate in this case because even if defendant were successful, defendant's motion would not be dispositive of the entire case"). And more specifically, such a proposed motion is certainly no justification for refusing to comply with this Court's pretrial order.

Moreover and as this Court is well aware, the filing of defendant's proposed motion to dismiss does not place discovery off-limits. *See Syngenta Seeds, Inc. v. BTA Branded, Inc.*, No. 05 C 6673, 2007 WL 3256848, *1-2 (N.D. Ill. Nov. 1, 2007) at *2 (that the need for discovery would be eliminated should a court grant a pending motion to dismiss does not alone justify a stay on discovery, as "[p]ermitting a stay of discovery simply upon the filing of such a motion would allow the exception to swallow the rule");

see also J.D. Marshall Int'l, Inc. v. Redstart, Inc., 656 F. Supp. 830, 836-38 (N.D. Ill. 1987) and *Rubin v. Islamic Rep. Of Iran*, No. 03-C-9370, 2008 WL 192321, *10 (N.D. Ill. Jan. 18, 2008).

We respectfully submit that the motion to stay should be denied and that the willful refusal of the defendant's counsel to confer pursuant to this Court's standing order should be immediately remedied.

**ROBERT W. WELSH,
d/b/a BIG TEN DEVELOPMENT**

By: /s/ Robert P. Cummins
One of His Attorneys

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